

VOLUME 3

PAGES 351 - 549

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE SUSAN ILLSTON, JUDGE

UNITED STATES OF AMERICA,)	COPY
)	
PLAINTIFF,)	
)	
VS.)	
)	
DANIEL DAVID,)	
)	
DEFENDANT.)	
)	

NO. CR 02-0062 SI

WEDNESDAY, MARCH 3, 2004

SAN FRANCISCO, CALIFORNIA

REPORTER'S TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

FOR PLAINTIFF: KEVIN V. RYAN
UNITED STATES ATTORNEY
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA 94102
BY: MATTHEW JACOBS,
MARK C. PARRENT,
ASSISTANT UNITED STATES ATTORNEYS

FOR DEFENDANT: FOLEY & LARDNER
ONE MARITIME PLAZA, SIXTH FLOOR
SAN FRANCISCO, CALIFORNIA 94111
BY: THOMAS F. CARLUCCI, ESQUIRE
RUSSELL L. CARLBERG, ESQUIRE

REPORTED BY: DIANE E. SKILLMAN, CSR 4909
OFFICIAL COURT REPORTER

1 IN THE STATE OF NEVADA THAN THEY ARE IN CALIFORNIA. AND HIS
2 CONCERN WAS THAT THESE -- THEY WERE GETTING THE REVENUE FROM
3 THESE LARGE PHONE COMPANIES AND THEY DIDN'T WANT THE PHONE
4 COMPANIES TO REALIZE WHO THE OWNERS WERE.

5 Q. DID HE EXPLAIN WHY HE DIDN'T WANT THE PHONE COMPANIES TO
6 KNOW?

7 A. HIS EXPLANATION, WHICH I UNDERSTOOD, WAS THAT IF THEY
8 GENERATED A LARGE AMOUNT OF REVENUE UNDER ONE COMPANY, LET'S
9 SAY, AGAIN, FOR EXAMPLE, AT&T WOULD WRITE OUT A CHECK FOR
10 \$50,000 IN RENT, WOULD TURN AROUND AND BE SUSPICIOUS OF IT AND
11 EITHER INVESTIGATE IT OR SIMPLY TRY AND CHANGE THEIR SYSTEM,
12 MAYBE REWRITE THEIR SOFTWARE OR SOMETHING TO AVOID PAYING THIS
13 SORT OF EXPENSE.

14 IF IT WAS DIVIDED AMONGST FIVE COMPANIES AT 10,000
15 APIECE, TO A COMPANY LIKE AT&T, THAT MIGHT NOT BE AS NOTICEABLE
16 AND GRAB THE ATTENTION.

17 Q. ALL RIGHT.

18 NOW, DID MR. NISBET REQUEST THAT ANY MAILING
19 ARRANGEMENTS BE MADE FOR THESE CORPORATIONS?

20 A. YES. THE MAIL WAS TO BE FORWARDED TO ME. THE PROCESS
21 WOULD BE THEY WOULD -- THE MAIL THAT THEY WERE CONCERNED ABOUT
22 WAS GETTING CHECKS.

23 Q. OKAY.

24 A. AND --

25 Q. LET ME ASK THIS TO GO STEP BY STEP.

1 DID YOU TAKE ANY STEPS TO SET UP AN ADDRESS FOR
2 THESE CORPORATIONS?

3 A. YES, I DID.

4 Q. CAN YOU EXPLAIN THAT, PLEASE?

5 A. LET ME EXPLAIN WHAT I DID FOR SETTING IT UP, THE WHOLE
6 PROCEDURE.

7 Q. ALL RIGHT.

8 A. BECAUSE I HAD NEVER SET UP A NEVADA CORPORATION BEFORE,
9 WHAT I DID IS FLEW -- I RESEARCHED AHEAD OF TIME AND WENT TO
10 LAS VEGAS BECAUSE LAS VEGAS AND CARSON CITY ARE THE TWO PLACES
11 WHERE YOU CAN INCORPORATE IN NEVADA ,THE SECRETARY OF STATE
12 OFFICE FOR THE STATE OF NEVADA, AND YOU CAN PHYSICALLY FILE.

13 WENT THERE, GOT A COMPANY CALLED RESIDENT AGENTS OF
14 NEVADA, AND HAD THEM HANDLE THE INCORPORATING PROCESS FOR ONE
15 COMPANY AND SAW WHAT THEY DID. OBVIOUSLY I KNEW THEY NEEDED TO
16 GET A FEDERAL ID NUMBER, WHICH I WAS FAMILIAR WITH, I DID THIS
17 FOR CLIENTS ALL THE TIME. WHAT THEY DID AS FAR AS FILING THE
18 PAPERWORK WITH THE STATE AND FOR SETTING UP A BANK ACCOUNT, AND
19 FOUND OUT WHERE TO, BECAUSE I HAD NO IDEA WHERE TO GO. AND
20 THEY USED BANK OF AMERICA BRANCH IN LAS VEGAS.

21 SO, I SAW WHAT THEY DID, AND THEY COST A FEE. I AM
22 GUESSING SOME REASON MY MIND PROBABLY AROUND \$800 FEE FOR DOING
23 THAT FOR ONE COMPANY. THEN I WAITED UNTIL THE PAPERWORK WENT
24 THROUGH ON THAT AND WENT BACK AND RETURNED.

25 Q. LET ME HAVE YOU PAUSE RIGHT THERE AND ASK YOU IF YOU CAN

1 RECOGNIZE A CERTAIN DOCUMENT.

2 (COUNSEL CONFER)

3 MR. PARRENT: MAY I APPROACH, YOUR HONOR?

4 THE COURT: YOU MAY.

5 BY MR. PARRENT:

6 Q. I AM SHOWING YOU WHAT HAS BEEN MARKED AS GOVERNMENT
7 EXHIBIT 28 FOR IDENTIFICATION. DO YOU RECOGNIZE THAT DOCUMENT?

8 A. YES, I DO.

9 Q. WHAT IS IT?

10 A. IT'S THE ARTICLES OF INCORPORATION FOR A COMPANY NAMED
11 BREEZE COMMUNICATIONS INCORPORATED, AND IT'S IN MY HANDWRITING.

12 Q. SO DID YOU PARTICIPATE IN THE FORMATION OF THIS
13 CORPORATION?

14 A. YES, I DID.

15 Q. AND WAS THIS DONE AT MR. NISBET'S DIRECTION?

16 A. YES, IT WAS.

17 MR. PARRENT: MOVE TO ADMIT GOVERNMENT'S 28.

18 MR. CARLUCCI: NO OBJECTION.

19 THE COURT: THANK YOU. IT WILL BE RECEIVED.

20 (PLAINTIFF'S EXHIBIT 28

21 RECEIVED IN EVIDENCE)

22 BY MR. PARRENT:

23 Q. CAN YOU SEE IT ON THE SCREEN, SIR?

24 A. I CAN SEE IT BETTER ON HERE.

25 Q. THAT WOULD BE FINE.

1 SEE AT THE VERY TOP IT SAYS "BREEZE COMMUNICATIONS"?

2 A. YES.

3 Q. IS THAT THE NAME OF THE PROPOSED CORPORATION THAT IS TRYING
4 TO ESTABLISH HERE?

5 A. YES.

6 Q. HOW DID THAT -- HOW DID YOU HAVE THAT NAME?

7 A. IT WAS SUGGESTED BY SCOTT IN THE CASE THERE WERE SOME -- I
8 DON'T RECALL IF THAT ONE WAS JUST FROM HIM OR FROM HIM AND
9 DANIEL COMBINED.

10 I REMEMBER FOR COMING UP WITH SOME OF THE NAMES HE
11 WOULD CONSULT WITH DANIEL.

12 Q. WAS THIS CORPORATION THEN SUCCESSFULLY ESTABLISHED IN
13 NEVADA?

14 A. YES, IT WAS.

15 Q. AND THIS IS THE ONE YOU ARE DESCRIBING RESIDENT AGENTS OF
16 NEVADA WERE HELPING SET IT UP?

17 A. YES.

18 Q. DID YOU ESTABLISH ANY ADDITIONAL CORPORATIONS AS THIS ONE
19 WAS ESTABLISHED?

20 A. YES, I DID. I WENT BACK AFTER THIS, THE PAPER PROCESS WAS
21 COMPLETED FROM THE SECRETARY OF STATE'S OFFICE AND WE RECEIVED
22 THE PAPERWORK THAT WE WERE SUPPOSED TO RECEIVE, I WENT BACK TO
23 LAS VEGAS AND SET UP WHAT I BELIEVE WAS FOUR OR FIVE, I AM NOT
24 SURE, SIMILAR CORPORATIONS.

25 IN THIS CASE, RESIDENT AGENTS OF NEVADA ACTED AS THE

1 MAILING AGENT AND WOULD FORWARD MAIL AND DID FORWARD MAIL OVER
2 TO ME. WHEN I WENT AND ESTABLISHED THE OTHER CORPORATIONS, I
3 USED THE SAME BANK, BUT I GOT DIFFERENT POST OFFICE BOXES FOR
4 THEM TO GET THE MAIL. AND THEN HAD A FRIEND OF MY WIFE'S WHO
5 LIVES IN HENDERSON, WHICH IS RIGHT NEXT TO LAS VEGAS, SHE WAS
6 TO GO AROUND EVERY WEEK OR TWO TO THE VARIOUS POST OFFICE
7 BOXES, GET THE MAIL, STICK IT IN A BIG MANILA ENVELOPE, AND
8 FORWARD IT OVER TO ME.

9 Q. DO YOU REMEMBER THE NAMES OF ANY OF THE OTHER CORPORATIONS?

10 A. I DON'T RECALL ALL OF THEM. I REMEMBER THERE WAS BAMBOO,
11 BOX CAR. ALL OF THESE WERE COMMUNICATIONS, INC. SO BAMBOO
12 COMMUNICATIONS, INC., BOX CAR COMMUNICATIONS, INC. I BELIEVE
13 THERE WAS PELICAN COMMUNICATIONS, INC.

14 Q. WHERE DID YOU GET THOSE NAMES?

15 A. FROM SCOTT, AND I KNOW ON SOME OF THEM HE CONSULTED WITH
16 DANIEL. THAT WAS ACTUALLY HOLDING ME UP AT ONE POINT ON SOME
17 PAPERWORK WAS TO GET THE LAST NAME OF THE CORPORATION.

18 Q. FOR THE MAILING ADDRESSES THAT YOU DISCUSSED EARLIER, COULD
19 YOU DESCRIBE THE LOCATION THAT YOU OBTAINED FOR THE FIRST -- IN
20 THE BEGINNING FOR THE MAIL?

21 A. WHAT I MEANT TO DO WAS GO TO DIFFERENT MAILBOXES, ET CETERA
22 AND GET A POST BOX AT EACH ONE BECAUSE THEY COULD USE THE WORD
23 SUITE. EXAMPLE, IF THE MAILBOX NUMBER, THE MAILBOX WAS 321,
24 THEY COULD USE THE STREET ADDRESS, THE MAILBOX ET CETERA, SAY
25 SUITE 321.

1 WHEN I WENT TO THE FIRST MAILBOXES, ET CETERA, I WAS
2 TOLD THAT THE POSTAL REGULATIONS HAD CHANGED FAIRLY RECENTLY, A
3 FEW MONTHS BEFORE, AND YOU COULD NO LONGER DO THAT AND YOU WERE
4 SUPPOSED TO BE PUTTING THE WORDS, THE LETTERS, "PMB" IN FRONT
5 OF THE NUMBER, WHICH STOOD FOR PRIVATE MAILBOX.

6 Q. WOULD THAT BE A PROBLEM IN WHAT YOU WERE TRYING TO DO?

7 A. THAT WOULD BE A PROBLEM BECAUSE A COMPANY THAT WOULD BE
8 BILLING THESE MAJOR PHONE COMPANIES WOULD NOT LIKELY -- THEY
9 WANTED TO HAVE A LARGER IMAGE, AND USING A PRIVATE MAILBOX
10 WOULD NOT LOOK VERY PROFESSIONAL.

11 SO, I CALLED SCOTT AND WHAT WE DECIDED TO DO WAS TO
12 GO TO REGULAR U.S. POST OFFICES.

13 Q. JUST SO WE ARE CLEAR, YOU JUST DESCRIBED THAT IT WOULD NOT
14 LOOK VERY PROFESSIONAL. WAS THAT INITIAL CONCERN YOUR CONCERN
15 OR DID THAT COME FROM MR. NISBET OR MR. DAVID?

16 A. THE INITIAL -- WELL, THE CONCERN ABOUT USING SUITE CAME
17 FROM THEM, SO I WAS AWARE OF THAT.

18 SO, WHEN I CAME INTO THIS PRIVATE MAILBOX SITUATION,
19 ACTUALLY DID RENT ONE MAILBOX, BUT WE NEVER WOUND UP USING IT
20 BECAUSE AS SOON AS I FOUND OUT OF THE RESTRICTION, I WENT AND
21 CALLED HIM AND I THINK I MIGHT HAVE BEEN THE ONE TO OFFER THE
22 ALTERNATIVE OF SAYING, WELL, I CAN INVESTIGATE AND SEE ABOUT
23 GETTING U.S. POST OFFICES.

24 BUT MY UNDERSTANDING WAS BECAUSE OF THEY WANTED TO
25 HAVE THE LARGER IMAGE.

1 Q. DID YOU EVENTUALLY OBTAIN U.S. POST OFFICE BOXES?

2 A. YES, I DID. AND RATHER THAN HAVING THEM AT ONE POST
3 OFFICE, BECAUSE THAT -- WE WANTED TO KEEP THE DIFFERENT
4 CORPORATIONS LOOKING INDEPENDENT. SO RATHER THAN GETTING THEM
5 ALL AT ONE POST OFFICE, WHICH WOULD MAKE IT LOOK LIKE THESE
6 CORPORATIONS WOULD BE UNITED OR CONSOLIDATED, I GOT THEM AT
7 FIVE DIFFERENT POST OFFICES, I BELIEVE IT WAS FOUR OR FIVE, ALL
8 IN LAS VEGAS AND THEY EACH HAD SEPARATE ZIP CODES.

9 Q. DID YOU DISCUSS THAT ISSUE WITH MR. NISBET OR MR. DAVID?

10 A. I DID WITH MR. NISBET.

11 Q. ALL RIGHT.

12 NOW, HOW WERE YOU TO BE COMPENSATED FOR THIS WORK
13 THAT YOU WERE DOING FOR THEM?

14 A. OKAY. ORIGINALLY, IT WAS FOR THE INITIAL WORK IT WAS FEE
15 BASED. THEY GAVE ME APPROXIMATELY \$5,000 FOR THE -- THEY PAID
16 FOR SOME WORK THAT WAS AHEAD OF TIME IN PREPARATION FOR GOING
17 TO VEGAS.

18 THEN APPROXIMATELY \$5,000, WHICH WAS FIRST OF ALL
19 APPLIED TOWARDS EXPENSES, MOTEL, CAR RENTAL, FLIGHT. AND THEN
20 THE REMAINDER WAS GOING TO ME AND. IN THE LONG-RANGE
21 SITUATION, IT WAS DISCUSSED THAT I MIGHT BECOME A MINORITY
22 STOCKHOLDER IN ONE OF THE COMPANIES, BUT WE HADN'T GOTTEN TO
23 THAT YET. AND DUE TO REASONS OF COMMON OWNERSHIP OF MULTIPLE
24 COMPANIES, WHICH I COULD GET INTO, I DECIDED ON MY OWN I WASN'T
25 GOING TO DO THAT BECAUSE OF A CONFLICT OF INTEREST, BUT WOULD

1 A. APPROXIMATELY TWO AND A HALF YEARS.

2 Q. AND CAN YOU GENERALLY DESCRIBE WHAT THAT MEANS? WHAT DID
3 YOU DO ON A DAILY BASIS?

4 A. ON A DAILY BASIS, I HAD A STAFF WHO COLLECTED WHAT IS
5 KNOWN, CALLED DETAILED RECORDS OR CALLS PLACED OVER SPRINT'S
6 NETWORK, WHICH ORIGINATED FROM PAYPHONES. AND THAT

7 COMPENSATION WAS DUE ON COLLECTED INFORMATION, TOTALED IT, AND
8 THEN SUBMITTED IT FOR REPAYMENT TO THE PAYPHONE OWNERS BASED ON
9 THE VOLUMES OF TRAFFIC THAT CAME FROM OR ORIGINATED FROM THAT.

10 Q. OKAY.

11 NOW, MR. CONSANI I JUST WANT TO ASK YOU A LITTLE BIT
12 ABOUT THE STRUCTURE AND HOW SOMEBODY, IF SOMEBODY WANTED TO
13 HAVE A PAYPHONE, HOW THEY WOULD GO SETTING THAT UP.

14 A. OKAY. THAT'S NOT SPRINT'S BUSINESS, HOWEVER, TYPICALLY IF
15 SOMEONE WANTED TO SET UP A PAYPHONE, SAY AT A GAS STATION OR
16 HOTEL OR SOME ENTITY LIKE THAT, THEY WOULD EITHER CONTACT A
17 VENDOR WHO WOULD ACTUALLY BUILD THE PAYPHONES FOR THEM SO THEY
18 HAVE THE PHYSICAL PIECE OF PROPERTY WITH THEM, THEY WOULD THEN
19 CONTACT THE LOCAL TELEPHONE COMPANY IN THAT AREA, IDENTIFY THAT
20 THEY WOULD LIKE TO PURCHASE A PHONE LINE FOR THE PURPOSE OF A
21 PAYPHONE, AND THAT WOULD BE INSTALLED FOR THEM.

22 Q. OKAY.

23 AND THEN WHAT PROCESS HAS TO GO THROUGH IN ORDER
24 TO -- IS THERE ANY RELATIONSHIP FORMED WITH SAY SPRINT AT THAT
25 POINT OR DOES THAT ONLY HAPPEN WHEN CALLS ARE MADE?

1 A. THEY CAN CHOOSE A LONG DISTANCE CARRIER AT THAT POINT IN
2 TIME. THEY HAVE THE OPTION OF CHOOSING WHOMEVER THEY WOULD
3 LIKE.

4 AND FOR USERS OF THOSE PAYPHONES, IF THEY DIDN'T
5 CHOOSE TO MAKE A DECISION ON WHICH LONG DISTANCE CARRIER THEY
6 WOULD LIKE, THE DEFAULT WOULD BE THE DECISION OF THE PAYPHONE
7 OWNER WHO PRESUBSCRIBES THAT LONG DISTANCE CARRIER, SIMILAR TO
8 YOUR HOME SERVICE.

9 Q. OKAY. NOW, I WANT TO TALK TO YOU ABOUT THE PAYPHONE
10 OWNERS.

11 WHAT ABOUT ON THE OTHER SIDE, THE 800 NUMBER OWNERS.
12 SOMEBODY WANTS TO GET AN 800 NUMBER, HOW DO THEY GO
13 ABOUT SETTING THAT UP?

14 A. SURE.

15 THEY WOULD CONTACT EITHER A LONG DISTANCE CARRIER OR
16 LOCAL COMPANY AND INDICATE THAT THEY WOULD LIKE TO SET UP A
17 TOLL FREE NUMBER FOR OUR CUSTOMER SERVICE OPERATIONS, OR
18 RESIDENTIAL CUSTOMER CAN SET ONE UP IF THEIR CHILDREN ARE AWAY
19 AT COLLEGE OR SOMETHING LIKE THAT, THEY WANTED TO CALL HOME AND
20 NOT HAVE TO BURDEN THEM WITH COST OF CALLING HOME.

21 Q. SO IS IT CORRECT THEN IT'S AVAILABLE TO REALLY ANYONE, YOU
22 DON'T HAVE TO BE A BUSINESS?

23 A. YOU DO NOT HAVE TO BE A BUSINESS; YOU CAN BE A RESIDENTIAL
24 CUSTOMER JUST LIKE YOU AND I. HOWEVER, BUSINESSES DO USE THEM
25 PREDOMINANTLY.

1 Q. OKAY.

2 A. SOME BUSINESSES LIKE TO HAVE A PARTICULAR NUMBER THAT
3 MATCHES SAY THEIR COMPANY NAME, OR THEIR SLOGAN, OR SOMETHING
4 LIKE THAT. AND THEY CAN REQUEST THAT. IF IT IS AVAILABLE, WE
5 CAN GET IT FOR THEM. AT WHICH POINT WE SET UP AN ACCOUNT FOR
6 THEM, OPEN UP THE NETWORK, AND ALL CALLS THAT WOULD BE DIALED
7 TO THAT TOLL-FREE NUMBER WITHIN THE CONTINENTAL UNITED STATES,
8 WOULD TERMINATE TO THE NUMBER THAT THEY DECIDED.

9 Q. DOES THE -- IS THERE A RELATIONSHIP FORMED WITH, FOR
10 EXAMPLE, SPRINT?

11 A. YES. YOU WOULD CHOOSE WHICHEVER COMPANY YOU SET UP THE
12 SERVICE WITH. IT COULD BE SPRINT, IT COULD BE YOUR LOCAL
13 TELEPHONE COMPANY, IT COULD BE ANOTHER LONG DISTANCE CARRIER.

14 THEY WOULD ACTUALLY PASS THE TRAFFIC FOR THAT
15 TOLL-FREE NUMBER OVER THE SPRINT NETWORK, IN THIS CASE, AND
16 TERMINATE TO YOUR PHONE NUMBER OF CHOICE.

17 Q. AND ARE THERE A NUMBER OF LONG DISTANCE CARRIERS WHO COULD
18 SET UP 800 NUMBERS?

19 A. YES.

20 Q. ANY IDEA HOW MANY?

21 A. THE MAJOR ONES ARE AT&T, SPRINT, WORLD.COM. THOSE ARE THE
22 MAJOR ONES. THERE ARE SOME SMALLER PHONE COMPANIES OUT THERE.

23 Q. LET'S TALK ABOUT WHAT HAPPENS WHEN AN ACTUAL 800 NUMBER
24 CALL IS MADE FROM A PAYPHONE.

25 SO WHAT, IN TERMS OF COMPENSATION, WHAT GETS

1 TRIGGERED AT THAT POINT?

2 A. WHAT ACTUALLY HAPPENS IS, IF A PERSON COMES UP, THEY WANT
3 TO CALL A TOLL-FREE NUMBER, THEY GO TO A PAYPHONE, THEY DIAL
4 THE NUMBER DIRECTLY.

5 TYPICALLY, WITH A PAYPHONE, YOU HAVE TO PUT COINS
6 IN, 50 CENTS, 75 CENTS, WHATEVER THE APPROPRIATE COST IS. WITH
7 A TOLL-FREE NUMBER, OBVIOUSLY, IT IS TOLL FREE, SO YOU DON'T
8 HAVE TO DO THAT.

9 IN THAT CASE, WHEN A TOLL FREE CALL IS MADE, THE
10 PAYPHONE OWNER'S SOFTWARE ON THEIR PHONE HAS THE ABILITY TO PUT
11 AN INFORMATION DIGIT ON THE CALL OR CALL DETAIL RECORD THAT'S
12 CREATED WHEN THE CALL IS MADE. THAT INFORMATION DIGIT IS
13 ASSIGNED BY THE FCC AND HELPS THE LONG DISTANCE CARRIER
14 IDENTIFY THAT CALL WAS PLACED ON A PAYPHONE AND THEY DIDN'T PUT
15 ANY MONEY IN THE MACHINE TO MAKE THE CALL. YOU, AS THE LONG
16 DISTANCE CARRIER, ARE REQUIRED TO COLLECT THE MONEY.

17 Q. COLLECT THE MONEY FROM WHOM?

18 A. COLLECT IT FROM THE OWNER OF THE 800 SERVICE.

19 Q. WHAT IS THE AMOUNT THAT WOULD TYPICALLY BE COLLECTED?

20 A. SPRINT CHARGES 26 CENTS.

21 Q. IS ANY PART OF THAT MANDATED BY THE FCC OR IS THAT
22 SOMETHING THAT SPRINT CHOSE?

23 A. THE FCC MANDATES 24 CENTS AND SPRINT ADDS AN ADDITIONAL
24 2 CENTS OR THE ADMINISTRATIVE FEES.

25 Q. AND ARE THERE SOME OTHER COSTS THAT SOMEBODY WITH AN 800

1 NUMBER MIGHT HAVE AS WELL?

2 A. THE ACTUAL USAGE OF THE CALL. SO, FOR INSTANCE, THE USAGE
3 IS 10 CENTS A MINUTE.

4 Q. ARE THERE SOME ADDITIONAL FEE -- I'M SORRY.

5 ARE THERE ADDITIONAL FEES THEN THAT SOMEONE WHO
6 RECEIVES AN 800 CALL MIGHT HAVE TO PAY IN ADDITION TO THE
7 26 CENTS?

8 A. YES.

9 Q. OKAY. THE 26 CENTS IS THEN PAID. IS THAT PAID DIRECTLY TO
10 SPRINT?

11 A. IN THE BEST CASES, YES. WE SEND A BILL TO THE OWNER OF THE
12 800 NUMBER WITH THEIR CALL DETAIL RECORDS.

13 THERE WOULD BE THE SURCHARGE OF THE 26 CENTS PLUS
14 THE USAGE CHARGES ON THERE. WE WOULD COLLECT THAT FROM THEM
15 AND HOLD THE MONEY AND PAY IT QUARTERLY. WE ARE DESIGNATED BY
16 THE FCC TO PAY THAT MONEY QUARTERLY TO THE PAYPHONE OWNER.

17 Q. NOW, WHEN -- HOW DOES THE PAYPHONE OWNER SUBMIT A DEMAND
18 FOR PAYMENT OR DO YOU JUST SEND IT AUTOMATICALLY; HOW DOES THAT
19 WORK?

20 A. NO. ACTUALLY, BASED ON THE FCC GUIDELINES, WE ARE TO GET A
21 CLAIM FROM THAT PAYPHONE OWNER THAT SAYS, "HEY, I OWN THIS
22 PAYPHONE AND THIS PAYPHONE NUMBER BELONGS TO ME." WE THEN TAKE
23 THAT CLAIM FORM, ACTUALLY WE HAVE A THIRD-PARTY VENDOR THAT
24 DOES THIS FOR US. THEY GO --

25 Q. WHO IS THAT THIRD-PARTY VENDOR?

1 IS A PAYPHONE ON THE SECOND FLOOR HERE. IF I WENT DOWN TO THE
2 SECOND FLOOR AND I STARTED TO DIAL HOME DEPOT'S 1-800 NUMBER,
3 AND YOU CAME BY AND ASKED ME A QUESTION AND I HUNG UP, BUT IT
4 ACTUALLY CONNECTED, HOME DEPOT WOULD ACTUALLY GET CHARGED
5 26 CENTS FOR THAT CALL, RIGHT?

6 A. IF IT WAS A COMPLETED CALL, YES.

7 Q. IN OTHER WORDS, IT WENT THROUGH, I HUNG UP AFTER TWO
8 SECONDS, BUT IT CONNECTED, RIGHT?

9 A. THAT'S A COMPLETED CALL, YES.

10 Q. AS SOON AS I FINISHED TALKING TO YOU, MR. JACOBS CAME TO ME
11 AND SAID THE SAME THING, I MADE ANOTHER CALL AND HUNG UP, THEY
12 GET CHARGED 26 CENTS AGAIN?

13 A. THAT WOULD BE ACCURATE.

14 Q. AND IN THIS PROCESS, SPRINT WOULD COLLECT 2 CENTS EACH TIME
15 THOSE CALLS WERE MADE TO COVER ITS COST, RIGHT?

16 A. THAT IS CORRECT.

17 Q. NOW, WITH RESPECT TO THE CHECKS THAT YOU TALKED ABOUT, DO
18 YOU KNOW WHETHER ALL THOSE CHECKS WERE CASHED?

19 A. I DO NOT.

20 ACTUALLY, I COULD LOOK AT THEM, AGAIN. I BELIEVE
21 THAT THEY WERE ENDORSED BY THE BANK ON THE BACK, SO I WOULD
22 MAKE THE ASSUMPTION THAT THEY WERE CASHED.

23 Q. LET'S GO ON THAT ASSUMPTION FOR A MOMENT THAT IT IS CASHED.

24 IF, IN FACT, THAT MONEY WAS IMPROPERLY OBTAINED FROM
25 THE PERSON WHO HAS THAT 800 NUMBER --

1 REPRESENTATION ON BEHALF OF THE DEFENDANT?

2 A. ACTIVE, NO.

3 Q. DID THERE EVER COME A TIME, MR. CORNET, WHEN MR. DAVID
4 APPROACHED YOU ABOUT DEPOSITING CERTAIN CHECKS?

5 A. YES, SIR.

6 (COUNSEL CONFER.)

7 BY MR. JACOBS:

8 Q. MR. CORNET, I AM GOING TO SHOW YOU WHAT HAS BEEN ADMITTED
9 INTO EVIDENCE AS EXHIBIT 23 AND JUST HAVE YOU LOOK THROUGH THAT
10 AND TELL ME IF YOU RECOGNIZE ANY OF THOSE CHECKS.

11 A. THE CHECKS OR THE DEPOSITS? THERE'S ENDORSEMENTS ON THE
12 BACK.

13 Q. TELL ME IF THERE IS ANYTHING IN THAT EXHIBIT THAT YOU DON'T
14 RECOGNIZE.

15 A. OKAY.

16 (WITNESS REVIEWS EXHIBIT.)

17 NO, I RECOGNIZE ALL OF THEM.

18 Q. MR. CORNET, THE CHECKS THAT ARE IN EXHIBIT 23, ARE THOSE
19 THE CHECKS THAT MR. DAVID ASKED YOU TO DEPOSIT FOR HIM?

20 DID HE ASK YOU TO DEPOSIT SOME CHECKS?

21 A. YES, BUT NOT ALL AT ONCE.

22 Q. I UNDERSTAND.

23 A. THEY CAME AT DIFFERENT PERIODS OF TIME.

24 Q. BUT ULTIMATELY THE CHECKS THAT ARE IN THAT EXHIBIT, DID HE
25 ASK YOU TO DEPOSIT THEM FOR HIM?

1 A. YES, SIR.

2 Q. NOW, DID THESE CHECKS, I AM GOING TO COME BACK AND TALK
3 ABOUT THE DISCUSSIONS YOU HAD ABOUT IT, BUT DID THESE CHECKS
4 HAVE ANYTHING TO DO WITH ANY LEGAL REPRESENTATION THAT YOU WERE
5 DOING ON MR. DAVID'S BEHALF?

6 A. NO, SIR.

7 Q. AND WE HAVE A CHECK UP ON THE SCREEN, WHICH IS THE FIRST
8 PAGE OF THIS EXHIBIT, AND WHAT IS THE AMOUNT OF THAT CHECK?

9 A. CAN I LOOK AT THE EXHIBIT INSTEAD?

10 Q. I AM SORRY?

11 A. MAY I LOOK DIRECTLY AT THE EXHIBIT?

12 Q. YES.

13 A. \$126,453.89.

14 Q. HOW DID IT COME ABOUT THAT MR. DAVID ASKED YOU TO DEPOSIT
15 THIS CHECK?

16 A. HE CAME BY MY OFFICE. HE DID NOT WANT TO USE HIS ACCOUNT
17 AT THE MECHANICS BANK, AND HE TOLD ME THE REASON HE DIDN'T WANT
18 TO USE IT.

19 Q. WHAT REASON DID HE GIVE YOU?

20 A. HE THOUGHT THAT THE MANAGER OF THE MECHANICS BANK WOULD
21 TELL HIS FATHER HOW WELL HE WAS DOING AND HE WANTED TO TELL HIS
22 FATHER AFTERWARDS, BUT NOT THEN. AND I ACCEPTED THAT. I HAD
23 NO PROBLEMS WITH THAT.

24 SO HE DIDN'T WANT TO USE THE MECHANICS BANK AND I
25 PUT IT THROUGH THE TRUST ACCOUNT.

1 Q. HE ASKED YOU TO PUT IT IN YOUR ATTORNEY TRUST ACCOUNT?

2 A. I DON'T THINK HE SPECIFICALLY ASKED FOR THE ATTORNEY TRUST
3 ACCOUNT. I DON'T THINK HE SPECIFICALLY ASKED FOR IT. AN
4 ACCOUNT. SOMEHOW WE ENDED UP PUTTING IT IN THE ATTORNEY TRUST
5 ACCOUNT.

6 Q. HE ASKED YOU TO DEPOSIT THE CHECKS INTO YOUR ACCOUNT?

7 A. YES.

8 Q. WHAT IS ON ATTORNEY TRUST ACCOUNT?

9 A. THAT'S THE ACCOUNT THAT ATTORNEYS GENERALLY MAINTAIN FOR
10 CLIENT FUNDS. NOT FOR THEIR OWN FUNDS, ALTHOUGH THEY MAY HAVE
11 THEIR OWN FUNDS IN THERE FOR PART OF THE TIME, BUT FOR THE
12 CLIENT'S FUNDS.

13 Q. OKAY.

14 AND, AGAIN, WHAT WAS HIS REASON FOR WANTING TO HAVE
15 YOU PUT THIS IN THE -- IN YOUR ACCOUNT?

16 A. HE THOUGHT THAT THE MANAGER AT THE MECHANICS BANK THAT HE
17 BANKED AT WOULD TELL HIS DAD BECAUSE THEY BANK AT THE SAME
18 PLACE.

19 I KNOW HIS FATHER BANKED AT MECHANICS BANK. I GOT
20 THAT FROM DANNY AT THE TIME. AND I HAD MY OWN PROBLEMS WITH A
21 MANAGER AT THE BANK, AT MECHANICS BANK BEFORE, SOME YEARS
22 BEFORE, SO I HAD NO PROBLEM REALIZING THAT THE MANAGERS DO
23 TALK.

24 Q. SO, AFTER YOU WOULD DEPOSIT A CHECK INTO YOUR ATTORNEY
25 TRUST ACCOUNT, WOULD YOU -- WHAT DID YOU DO THEN?

1 A. WELL, I PUT IT IN THE TRUST ACCOUNT, YOU WAIT UNTIL IT
2 CLEARS NORMALLY, AND THEN YOU WRITE A CHECK TO THE CLIENT FOR
3 THEIR MONIES.

4 Q. LET'S NOT TALK ABOUT -- LET'S TALK SPECIFICALLY WITH
5 RESPECT TO THESE CHECKS AND MR. DAVID.

6 WHAT WAS -- WHAT WERE YOU ASKED TO DO WITH RESPECT
7 TO THE MONEY THAT YOU DEPOSITED INTO YOUR ATTORNEY TRUST
8 ACCOUNT?

9 A. WELL, I PUT IT INTO THE TRUST ACCOUNT, AND WHEN IT CLEARED,
10 I WROTE HIM A CHECK AND HE CAME BY AND PICKED IT UP.

11 Q. A CHECK TO MR. DAVID?

12 A. TO MR. DAVID.

13 Q. DID THIS ALL HAPPEN AT ONE TIME OR WOULD HE COME TO YOU
14 FIRST, GIVE YOU THE CHECK, AND THEN COME BACK TO PICK UP THE
15 CHECK TO HIM?

16 A. WELL, MY SPECIFIC RECOLLECTION IS THAT I WAITED UNTIL THE
17 CHECK HAD CLEARED THE ACCOUNT.

18 Q. WHAT DID MR. DAVID TELL YOU ABOUT THE SOURCE OF THE FUNDS?

19 A. WHETHER HE BROUGHT IT UP FIRST OR WHETHER I BROUGHT IT UP
20 FIRST, I CAN'T TELL YOU, BUT CLEAR UNDERSTANDING I HAD WAS THIS
21 WAS A WINE DEAL.

22 Q. SO YOU HAD SOME DISCUSSION WITH HIM, WHETHER HE BROUGHT IT
23 UP OR YOU BROUGHT IT UP YOU ARE NOT SURE, BUT YOU DISCUSSED
24 THIS WAS FROM A WINE DEAL?

25 A. THAT'S MY RECOLLECTION, YES, SIR.

1 Q. OKAY. AND WHO -- HAD YOU EVER MET THE INDIVIDUALS TO WHOM
2 THIS CHECK WAS MADE OUT, BILL JANSEN OR DAVE JACOBS?

3 A. NO, SIR.

4 Q. WHAT DID MR. DAVID TELL YOU ABOUT BILL JANSEN AND DAVE
5 JACOBS?

6 A. JUST THAT THEY WERE BUSINESS PARTNERS.

7 Q. AND DID YOU UNDERSTAND THAT THEY WERE PARTNERS IN HIS WINE
8 BUSINESS?

9 A. NO. I UNDERSTOOD THAT AS BEING PEOPLE WHO WERE EITHER
10 BUYING WINES FROM HIM OR DEALING IN WINES WITH HIM.

11 Q. BUT THAT THEY WERE HIS BUSINESS PARTNERS?

12 A. THEY WERE PEOPLE HE WAS DOING A BUSINESS DEAL WITH.

13 Q. DID YOU ASK TO MEET WITH MR. JANSEN OR MR. JACOBS IN ORDER
14 TO VERIFY THAT THEY WERE -- THAT THIS WAS, IN FACT, THEIR CHECK
15 AND THAT THEY WERE SIGNING IT OVER TO DANIEL DAVID?

16 A. NO, SIR.

17 Q. WHY NOT?

18 A. I HAD TOTAL TRUST IN DANNY.

19 Q. DID MR. DAVID EVER TELL YOU ABOUT A COMMUNICATIONS
20 BUSINESS?

21 A. NO, SIR.

22 Q. UM --

23 A. WELL --

24 Q. -- IN CONNECTION WITH THE DEPOSIT OF THESE CHECKS?

25 A. IN CONNECTION WITH THE DEPOSIT OF THESE CHECKS, NO, SIR.

1 Q. AND SO ALL MY QUESTIONS GO TO THAT TIME PERIOD.

2 A. CORRECT.

3 Q. DID MR. DAVID, IN ASKING YOU TO DEPOSIT THESE CHECKS, EVER
4 TELL YOU THAT HE HAD A BUSINESS OF CALLING 800 NUMBERS?

5 A. NO, SIR.

6 Q. DID HE EVER TELL YOU ABOUT ANY AUTODIALERS?

7 A. NO, SIR.

8 Q. DID HE EVER TELL YOU ABOUT AN OFFICE SPACE IN SOUTH SAN
9 FRANCISCO WITH 23 PAYPHONE LINES?

10 A. NO, SIR.

11 Q. DID YOU KNOW THAT MR. DAVID HAD PAYPHONE LINES?

12 A. NO, SIR.

13 Q. DID HE EVER TELL YOU ABOUT A SURVEY TO GATHER INFORMATION
14 IN ORDER TO SUE THE TELEPHONE COMPANIES?

15 A. NO, SIR.

16 Q. LET'S GO THROUGH THIS EXHIBIT.

17 IS THIS FIRST CHECK, IS THAT THE VERY FIRST CHECK
18 THAT MR. DAVID PRESENTED TO YOU?

19 A. I WOULD ASSUME SO. THEY STARTED IN 1999 AND THIS IS
20 JANUARY 4 OF 1999.

21 Q. SO WHAT DID YOU DO AFTER YOU RECEIVED THIS CHECK?

22 A. I PUT IT INTO THE TRUST ACCOUNT, AND SOMETIME LATER I
23 CHECKED WITH THE BANK AND IT CLEARED. I WROTE DANNY HIS CHECK.

24 AND I DON'T REMEMBER IF I MAILED IT TO HIM OR JUST
25 CALLED HIM. I PROBABLY JUST CALLED HIM.

1 Q. IS THAT THE DEPOSIT SLIP?

2 A. THE SECOND PAGE OF THIS EXHIBIT, WHICH YOU HAVE BATES
3 STAMPED 186, IS THE DEPOSIT SLIP.

4 Q. IF WE CAN LOOK AT THE BACK OF THIS JANUARY 4TH CHECK.

5 A. YES, SIR.

6 MR. JACOBS: IS IT POSSIBLE TO FLIP IT ON THE SCREEN
7 THERE?

8 THE WITNESS: HOPEFULLY THE JURY HAS BETTER EYESIGHT
9 THAN I DO. I CAN BARELY READ IT FROM HERE.

10 MR. JACOBS: LET'S SEE IF WE CAN BLOW THAT UP A
11 LITTLE BIT MORE.

12 THE WITNESS: I HAVE THIS SO IT'S OKAY.

13 BY MR. JACOBS:

14 Q. OKAY.

15 WHEN MR. DAVID PRESENTED THIS CHECK TO YOU, WHAT WAS
16 ON IT? THERE'S VARIOUS WRITINGS, BUT THERE ARE THREE
17 SIGNATURES. WERE THOSE SIGNATURES ON THE CHECK WHEN HE GAVE IT
18 TO YOU?

19 A. ALL THREE SIGNATURES WERE ON THE CHECK.

20 Q. SO, YOU DIDN'T SEE MR. JANSEN OR MR. JACOBS SIGN THE CHECK?

21 A. NOR MR. DAVID. CORRECT.

22 Q. I ASSUME, SINCE YOU BELIEVE THEY WERE BUSINESS PARTNERS,
23 MR. DAVID DIDN'T TELL YOU THAT JANSEN AND JACOBS WERE
24 FICTITIOUS PEOPLE, DID HE?

25 A. I HAD NO IDEA.

1 Q. IF YOU HAD KNOWN THEY WERE FICTITIOUS PEOPLE, WOULD YOU
2 HAVE DEPOSITED THIS CHECK INTO YOUR ATTORNEY TRUST ACCOUNT?

3 A. OF COURSE NOT.

4 Q. WHOSE HANDWRITING IS NEXT TO THE -- WHOSE PRINTING IS NEXT
5 TO THE SIGNATURES?

6 A. THAT'S MINE. I PRINTED OUT THE SPELLINGS OF EACH OF THE
7 NAMES.

8 Q. WHY DID YOU DO THAT?

9 A. BECAUSE THE BANK OF AMERICA WILL OCCASIONALLY REJECT THE
10 CHECK IF THE SIGNATURE IS ILLEGIBLE. AND SO, PARTICULARLY WITH
11 DANNY'S SIGNATURE, I HAD TO WRITE IT, AND I WROTE IT FOR ALL
12 THREE.

13 I ALSO WROTE THE HANDWRITING AT THE TOP, "FOR
14 DEPOSIT TO STEPHEN H. CORNET TRUST ACCOUNT." THAT'S ALL MY
15 HANDWRITING.

16 Q. OKAY.

17 MR. CORNET, WHY DID YOU DO -- WHY DIDN'T
18 MR. DAVID -- I WANT TO KNOW YOUR UNDERSTANDING -- WHY DIDN'T
19 MR. DAVID SIMPLY, IF HE DIDN'T WANT THE MECHANICS BANK BUSINESS
20 MANAGER TO TELL HIS FATHER, WHY DIDN'T HE JUST TELL THE
21 BUSINESS MANAGER NOT TO TELL NARSAI DAVID?

22 MR. CARLUCCI: OBJECTION, YOUR HONOR.

23 BY MR. JACOBS:

24 Q. LET ME ASK IT A DIFFERENT WAY.

25 DID YOU ASK MR. DAVID WHY HE DIDN'T JUST ASK THE

1 MANAGER NOT TO TELL NARSAI DAVID?

2 A. WELL, WE ACTUALLY TALKED ABOUT THE MANAGER AT THE MECHANICS
3 BANK THAT I ONCE HAD AN -- IT'S A LONG STORY.

4 I HAD A GIRLFRIEND WHO OPENED UP AN ACCOUNT AT
5 MECHANICS BANK. AND THE MANAGER AT THE PARTICULAR BANK WAS, I
6 BELIEVE, HIS NAME WAS BILL MORROW. I ASSUMED IT WAS THE SAME
7 MANAGER, BUT HE MAY NOT HAVE BEEN.

8 IN ANY EVENT, IN THE CONVERSATION IT COMES DOWN THAT
9 SHE KNOWS ME AND THE NEXT THING I KNOW, SHE COMES BACK AND
10 TALKS TO ME ABOUT EVERY DETAIL THAT BILL MORROW HAS EVER KNOWN
11 ABOUT MY ENTIRE LIFE. AND THAT WAS THE MANAGER AT MECHANICS
12 BANK.

13 SO, IF YOU ASSUME THAT -- MAYBE IF YOU ASSUME THAT
14 ANY BANK MANAGER IS DISCREET, THAT'S AN IMPROPER ASSUMPTION. I
15 DON'T KNOW. CERTAINLY MECHANICS BANK, MY EXPERIENCE WOULD BE
16 THAT MANAGERS WOULD TALK. AND ESPECIALLY FOR SOMEBODY THAT'S
17 AS WELL-KNOWN AS DAN'S FATHER IS.

18 Q. DID YOU ASK MR. DAVID WHY HE DIDN'T THEN GO TO A DIFFERENT
19 BANK OR A DIFFERENT BRANCH AND OPEN AN ACCOUNT THERE OR DEPOSIT
20 IT THERE?

21 A. WE DIDN'T TALK ABOUT A DIFFERENT BRANCH. I OFFERED HIM AN
22 INTRODUCTION TO MY BANKER AT THE BANK OF AMERICA.

23 Q. YOU SAY YOU OFFERED HIM AN INTRODUCTION; WHAT DOES THAT
24 MEAN?

25 A. I GAVE HIM THE NAME AND THE PHONE NUMBER AND SAID THE

1 PERSON WAS REALLY GOOD. IN FACT, THE PERSON WAS A REALLY GOOD
2 MANAGER.

3 Q. SO WHY DID -- WHY THEN DID HE NEED YOU TO DEPOSIT THESE
4 CHECKS INTO YOUR TRUST ACCOUNT? WHY DIDN'T HE SIMPLY GO TO THE
5 BANK OF AMERICA AND DEPOSIT THIS CHECK?

6 MR. CARLUCCI: OBJECTION, YOUR HONOR. IT IS CALLING
7 FOR SPECULATION.

8 BY MR. JACOBS:

9 Q. DID YOU ASK HIM WHY HE SIMPLY DIDN'T DO THAT?

10 A. NO.

11 Q. DID YOU ASK HIM WHY BILL JANSEN AND DAVE JACOBS DIDN'T
12 DEPOSIT THIS CHECK INTO THEIR BANK ACCOUNT?

13 A. NO.

14 Q. HAD YOU EVER HEARD OF MARK RYAN?

15 A. OF WHO?

16 Q. MARK RYAN.

17 A. NO, SIR.

18 Q. LET'S JUST HAVE YOU LOOK AT THE OTHER DOCUMENTS IN THE
19 EXHIBIT. YOU SHOULD GO TO THE BACK OF THE CHECK. THIS IS
20 BATES NUMBER 187.

21 IS THIS ONE OF THE CHECKS THAT YOU DEPOSITED FOR
22 MR. DAVID?

23 A. I WOULD ASSUME SO. YES.

24 Q. IS THAT YOUR HANDWRITING NEXT TO THE SIGNATURES?

25 A. YES.

1 Q. LET'S GO TO THE NEXT PAGE.

2 DID YOU DEPOSIT THIS CHECK AT PAGE 188 AS WELL?

3 A. YES, SIR.

4 Q. AND ALL OF THESE CHECKS WERE AT MR. DAVID'S REQUEST; IS
5 THAT CORRECT?

6 A. YES, SIR.

7 Q. DID YOU EVER MEET SCOTT NISBET?

8 A. NO, SIR.

9 Q. DID YOU KNOW WHO SCOTT NISBET WAS?

10 A. AT THE TIME, NO, SIR.

11 Q. DID MR. DAVID MAKE ANY REFERENCE TO SCOTT NISBET WHEN HE
12 WAS ASKING YOU TO DEPOSIT THESE CHECKS?

13 A. NO, SIR.

14 Q. LET'S GO TO THE NEXT EXHIBIT.

15 IS THAT A DEPOSIT SLIP THAT YOU FILLED OUT FOR
16 \$110,000?

17 A. THIS IS AT PAGE 189?

18 Q. PAGE 189.

19 A. YES, SIR.

20 Q. LET'S GO TO THE NEXT PAGE.

21 AT PAGE 190, DID YOU DEPOSIT THAT CHECK INTO YOUR
22 ATTORNEY TRUST ACCOUNT?

23 A. YES, SIR.

24 Q. LET'S GO TO THE NEXT PAGE.

25 A. 191?

1 Q. YES, 191.

2 IS THIS A CHECK THAT YOU DEPOSITED INTO YOUR
3 ATTORNEY TRUST ACCOUNT?

4 A. YES, SIR.

5 Q. NEXT PAGE.

6 IS THAT THE DEPOSIT SLIP FROM THAT DEPOSIT FOR
7 \$163,000? PAGE 192.

8 A. I AM ADDING UP THESE AMOUNTS. THE AMOUNTS FROM THESE TWO
9 AMOUNTS, THEY DO TOTAL 162 OR 163,000, YES, SIR.

10 Q. OKAY.

11 THE NEXT, THIS IS ANOTHER CHECK FOR 22,000 THAT YOU
12 DEPOSITED INTO YOUR ATTORNEY TRUST ACCOUNT FOR MR. DAVID?

13 A. YES, SIR.

14 Q. THAT'S PAGE 193.

15 GO TO THE NEXT EXHIBIT. I AM SORRY, NEXT PAGE.

16 THIS IS ANOTHER CHECK FOR APPROXIMATELY 20,000 THAT
17 MR. DAVID ASKED YOU TO DEPOSIT INTO YOUR ATTORNEY TRUST
18 ACCOUNT?

19 A. YES, SIR.

20 Q. DID YOU DO THAT?

21 A. YES, SIR.

22 Q. AND IN EACH OF THESE CASES, THOSE SIGNATURES WERE ALREADY
23 ON THE CHECK WHEN YOU RECEIVED IT?

24 A. YES, SIR.

25 Q. LET'S GO TO THE NEXT PAGE.

1 IS THAT A DEPOSIT SLIP REFLECTING SOME OF THE CHECKS
2 WE HAVE SEEN FOR APPROXIMATELY \$43,000?

3 A. YES, SIR.

4 Q. ALL RIGHT.

5 (COUNSEL CONFER.)

6 MR. JACOBS: MAY I APPROACH?

7 THE COURT: YOU MAY.

8 BY MR. JACOBS:

9 Q. MR. CORNET, I AM NOW SHOWING YOU EXHIBIT 24, WHICH I
10 BELIEVE IS ADMITTED INTO EVIDENCE.

11 THE COURT: IT IS.

12 MR. JACOBS: THANK YOU, YOUR HONOR.

13 BY MR. JACOBS:

14 Q. DO YOU RECOGNIZE EXHIBIT 24?

15 A. IN PART.

16 Q. WHAT PART DO YOU RECOGNIZE?

17 A. THE CHECKS WHICH APPEAR, THERE ARE THREE CHECKS THAT APPEAR
18 AT PAGE 196.

19 Q. OKAY. SO THAT'S THE CHECKS ON THE PAGE THAT'S NOW
20 DISPLAYED ON THE SCREEN?

21 A. THAT IS CORRECT, SIR.

22 I ASSUME THAT THE SECOND PAGE, PAGE 197, IS THE
23 ENDORSEMENT ON THESE CHECKS, BUT I HAVE NEVER SEEN THOSE
24 BEFORE.

25 Q. OKAY.

DIRECT EXAMINATION

1 BY MR. JACOBS:

2 Q. GOOD AFTERNOON, AGENT COFFIN.

3 A. HELLO.

4 Q. WHERE DO YOU WORK?

5 A. I AM A SPECIAL AGENT WITH THE FEDERAL BUREAU OF
6 INVESTIGATION.7 Q. AND HOW LONG HAVE YOU BEEN A SPECIAL AGENT WITH THE FEDERAL
8 BUREAU OF INVESTIGATION?

9 A. FIVE YEARS.

10 Q. WHERE -- ARE YOU ASSIGNED TO A PARTICULAR UNIT?

11 A. YES.

12 THE FBI IS BROKEN DOWN INTO SQUADS, AND I AM ON
13 THE -- I AM CURRENTLY, ACTUALLY, IN TRANSITION FROM THE WHITE
14 COLLAR CRIME FRAUD SQUAD IN THE CITY TO THE PUBLIC CORRUPTION
15 SQUAD IN OAKLAND.

16 Q. AND, AGENT COFFIN, WHAT IS YOUR EDUCATIONAL BACKGROUND?

17 A. I HAVE A BACHELOR OF ARTS FROM OHIO STATE UNIVERSITY AND I
18 HAVE A JURIS DOCTORATE, I AM A LAWYER, FROM THE UNIVERSITY OF
19 VIRGINIA.

20 Q. BEFORE YOU JOINED THE FBI, WERE YOU EVER IN THE MILITARY?

21 A. I WAS. I WAS A CAPTAIN IN THE AIR FORCE. I SERVED AS A
22 JAG OR JUDGE ADVOCATE.

23 Q. IS THAT A LAWYER FOR THE AIR FORCE?

24 A. YES. I SERVED ABOUT THREE YEARS AS A PROSECUTOR AND